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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1940

No. 133

MAJOR RAYMOND LISENBA,

Appellant,

vs.

THE PEOPLE OF THE STATE OF CALIFORNIA.

APPEAL FROM THE SUPREME COURT OF THE STATE OF CALIFORNIA.

STATEMENT AS TO JURISDICTION.

MORRIS LAVINE,
Counsel for Appellant.

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No. 133

MAJOR RAYMOND LISENBA, (Also Known as Robert S. James),

Appellant,

vs.

THE PEOPLE OF THE STATE OF CALIFORNIA,

Appellee.

STATEMENT OF JURISDICTION ON APPEAL.

In compliance with Rule 12, appellant herewith presents his statement of jurisdiction on appeal.

A.

The statutory provisions which sustain jurisdiction are Sec. 237 Judicial Code (28 U. S. C. A. 344) as amended by Act of January 31, 1928, Chapter 14, 45 Stat. 54 and Act of April 26, 1928, Chapter 440, 45 Stat. 466.

B.

The Fourteenth Amendment to the Constitution of the United States is involved in said decision, the pertinent portion of which is herein involved reading: "nor shall any

state deprive any person of life, liberty, or property, without due process of law;"

C.

The judgment in said case was rendered by the Supreme Court October 5, 1939, a petition for rehearing was filed October 25, 1939 in accordance with California practice, was entertained and considered and denied November 3, 1939. Justices Curtis and Houser voting for the hearing; Justice Carter being absent and not voting. An application for appeal was presented to the chief justice of the Supreme Court of the State of California November 6, 1939 and allowed on that date, to the Supreme Court of the United States.

D.

Nature of Case and Rulings Below.

The appellant is sentenced to death. His conviction and sentence resulted from a purported trial which was a mock and a sham, and therefore in violation of due process of law guaranteed by the Fourteenth Amendment to the Constitution of the United States. *Moore* v. *Dempsey*, 261 U. S. 86; *Mooney* v. *Holohan*, 294 U. S. 103.

Two live, hissing rattlesnakes, terrifying in their nature, were brought into the courtroom (R. 201, 201) (R. 1021, 1081-82, 828-831, 822, 823, 824) placed exposed before the jury, and created such a state of fright in their minds as to bring in a death penalty verdict through passion and prejudice, and not in accordance with due process of law.

Quoting from the dissenting opinion of Mr. Justice Seawell of the Supreme Court of California in *People* v. *Lisenba*, 97 Cal. Decisions, 467 (89 Pac. (2) 39) it is stated (R. 1081-82):

> "The affidavits of R. E. Parsons and Wm. J. Clark, Esqs., defendant's attorneys, aver various acts of mis-

conduct. They are predicated in the main on the dramatic manner in which two live rattlesnakes were brought into the courtroom in a glass-covered box some five feet in length and placed in front of the jury. The snakes as carried down the aisle shook their rattles furiously. It is not necessary to describe the consternation into which the crowded courtroom was thrown. There are some things of which the court will take judicial knowledge and this is one. The inside of the box contained smears of venom where the snakes had struck the sides of the box. This was called to the attention of the jury. The averments are that spectators rose to their feet, some gasped from nervous fear and persons nearest the aisles shrank away. Many uttered audible exclamations of fright. Counsel incorporates in his affidavit as descriptive of the scene the following account taken from the Los Angeles Herald Express, a newspaper of large circulation:

"'Buzzing their hollow rattles so loudly that women in the crowded courtroom shivered and shuddered at the eerie, frightening sounds, two diamond-backed rattlesnakes glittering in their new skins today were placed on the counsel table in Superior Charles W. Fricke's court where Robert S. James, Birmingham barber, crouched ghost-faced and jittery at his trial for the murder of his golden-haired bride, Mary.

"'Paraded across the courtroom in a velvet covered venom splashed 5-foot glass cage, two deadly diamond-back rattlesnakes late today hissed and shook their hollow rattles eerily and struck out with their evil wedge-shaped heads as they were exhibited less than 2 feet away before the fascinated eyes of 10 men and 2 women who make up the jury trying Robert S. James for the murder of his golden-haired wife, Mary.'"

The Los Angeles Examiner, another newspaper of wide circulation in Los Angeles, made the following comment:

"Men's enemy from primordial ages, the snake, yesterday was made the living, visible symbol of the Robert James murder case. Two diamond-backed rattlesnakes

> hissed and struck before the trial jury as a long glass box was borne forward like a hideous offering of a black ritual."

The jury was allowed to go at large, and was subjected to the constant onslaught of prejudicial and sensational news articles of a highly prejudicial character, which as pointed out in Justice Seawell's dissenting opinion, concurred in by Justice Curtis, and Justice Houser, "was unquestionably communicated to the jury in every form of modern news transmission."

The bringing in of live venomous snakes before the jury and the exhibition of a dead snake enclosed in a glass jar, with open mouth and fangs projecting from the upper jaw, were violently objected to in the trial of the case when first brought in, said objections being overruled (R. 200, 201, 204, 205, 206, 246, 247). Thereafter, on appeal in the Supreme Court of California, which takes over death penalty cases, the majority opinion held it was proper to bring live snakes into the courtroom while the dissenting opinion held:

> "What aid the two live rattlesnakes which were brought into the courtroom, rattling and writhing, and thus exhibited to the jury in determining the cause of death on any theory, does not appear from a painstaking examination of the entire transcript of the proceedings, and we feel satisfied that the spectacular exhibition of the rattlesnakes, in the circumstances to be hereafter noted, unquestionably constituted prejudicial error." (See opinions and see dissenting opinion (R. 950, 979, 985).)

On October 25th, the Supreme Court still having jurisdiction of the cause, appellant, in accordance with California practice, petitioned to the Supreme Court for rehearing to determine whether the bringing in of live, hissing rattlesnakes in the manner hereinbefore described, and conducting a trial, or purported trial, under such circumstances

did not violate due process of law guaranteed by the fourteenth amendment to the Constitution of the United States. The court on November 3, 1939 entertained said petition on the grounds mentioned and ruled against said petitioner, holding he was not denied due process of law guaranteed by the Constitution of the United States in holding a trial with live rattlesnakes hissing at the jury (R. 842, 844 *et seq.*; R. 941; R. 948, 949, 950).

We contend that such a proceeding is not a trial, but a mask of a trial wherein appellant was hurried to conviction, and where, just as in *Moore* v. *Dempsey*, 261 U. S. 86 "counsel, court and jury were swept to the fatal end by an irresistible wave of passion and prejudice, so that no trial in a true sense was afforded."

2. That third degree brutal methods, both in the form of physical violence, and in the deprivation to appellant of sleep and rest, were used upon him to coerce and extort a purported confession (R. 449 *et seq.*), and that the use in evidence of such purported confession obtained by such means and methods make void the entire trial under the due process clause of the Fourteenth Amendment to the Constitution of the United States. *Brown* v. *Mississippi*, 297 U. S. 278; *Jones* v. *Commonwealth*, 97 F. (2d) 333.

The details of the procedure are clearly described by Justice Sewell, in his dissenting opinion (concurred in by Justice Curtis, and on rehearing by Justices Houser and Curtis), as follows, R. 979, 1056-1076:

> "On Sunday morning, April 19, James was taken from his home at 3886 La Salle Avenue by Southard, Griffen and Dean, investigators, to a private house next door, 3882 La Salle avenue, occupied by officers for spying and dictaphone purposes, where the dictaphone's part in the case was explained to him. This was done for psychological effect. Southard said he

took 'quite a crowd' with him at the time he and the officers took James to the house and exhibited to him the dictaphone apparatus. A number of newspaper men, District Attorney Fitts, Deputy District Attorney Williams, Officers Scott Littleton, Davis and Dean were among the crowd present. He was then taken to the office of Lieutenant Morgan, where he was questioned for more than an hour. He was next taken to the district attorney's office (Sunday forenoon) where he was examined at great length and was called upon to defend himself against grave charges made by the officers. Asked if James was informed that a charge of murdering his wife was under investigation, Southard answered "I believe not." Attorney S. J. Silverman, who had been James' attorney in civil matters for some time and had heard that an attempt was being made to have James indicted for the murder of his wife, and James himself testified that Silverman had instructed James to decline to answer any questions bearing on the alleged homicide except when Silverman was present. At any rate James refused to talk after he was asked the first few questions and, according to Southard, he told Fitts 'to "go to hell." ' They kept right on questioning him. Mr. Williams, a deputy district attorney, Griffen and several other investigators were present. Mr. Southard said *it could have been possible* that they told him they had the goods on him. The arrangement under which James was 'worked on' was that he was placed in a large chair, where he was compelled to sit for forty-eight hours, according to the admissions of Southard and other investigators, but, on the showing in the record, the questioning must have continued for sixty hours. The investigators worked in pairs on four-hour shifts. From sheer exhaustion the defendant several times fell asleep. Never less than two and as many as eight or ten officers were plying the defendant with questions at all hours of the night. The alleged confession began to break, after days of unremitting effort, at 1:45 o'clock in the morning. No one, not even Mr. Silverman, the defendant's attorney, or Mr. Parsons, had knowledge of the place in which the de-

fendant was held in private custody by the investigators. Neither his friends, relatives nor the public knew the place of detention. No warrant of arrest had been issued and there was no public record, or any record, which would enable any one not a member of the staff of investigators to know of or discover the presence of defendant.

"The law prescribes the place in which persons charged with crime may be detained. A private house located in a residential part of a city and not complying with the provisions of law prescribing the purpose and use of county jails and their management, is not a place where persons charged or suspected of crime may lawfully be detained. Grave abuses may be practiced against persons thus illegally held in secret confinement (Pen. Code, sec. 1597 et seq.). Every police officer who, having arrested any person upon a criminal charge, wilfully delays taking such person before a magistrate for examination is guilty of a misdemeanor (Sec. 145, Pen. Code). In the instant case the defendant was held in custody seventeen days without the issuance of a warrant and without being taken before a body which had power to examine the offense with which he was finally charged. He requested that his attorneys, first Mr. S. J. Silverman, whom the district attorney had reported out of the city for the week end, and then Mr. R. E. Parsons, be contacted. Neither appearing to be immediately available, the inquisition in which a number of investigators took part, was vigorously and unremittingly pressed, without delay through many hours. It was not a proceeding authorized by statute and no sufficient reason was or could be shown why the request of defendant for advice of counsel, a right guaranteed by the Constitution and by statute to every person charged with crime, was not complied with. Section 849 of the Penal Code provides: 'When an arrest is made without a warrant by a peace officer * * * the person arrested must, without unnecessary delay, be taken before the nearest or most accessible magistrate in the county in which the arrest is made, and a complaint, stating the charge

against the person, must be laid before the magistrate.' Section 859, following the procedure above cited, provides that the magistrate must allow the defendant a reasonable time to send for counsel and may postpone the examination for that purpose. Upon *request* of the defendant, the magistrate *must* require a peace officer to take a message to any counsel in the township without delay and without fee. These and other provisions of the statute cannot be circumvented by resorting to any methods which tend to deny the rights and protection which the law guarantees to every person charged with a crime. The statutes impose quite substantial fines and terms of imprisonment upon peace officers for the wilful disregard of their duties (Pen. Code, Secs. 145, 147, 149).

"Early in the confinement of the defendant, Officer Southard committed an admitted battery upon him. He and Officer Griffen were 'working' on the defendant when Southard struck him, according to his admission, in the face or on the side of the head. * * * Griffen said that after James was 'slapped' they continued to question him but he saw no other violence inflicted upon him. Griffen questioned him the next night until one o'clock a.m. During all the time he was being held incommunicado he did not see James sleep. * * * James had then been questioned, admittedly for forty-eight hours. There is evidence that it was longer. * * * Griffen said that James did complain about his ear, but he examined it and couldn't find anything wrong with it. When Griffen returned to the place of examination at nine o'clock five other officers were with James. At 8:30 he was taken by Officers Kynette and Davis to Ninth and Alvarado streets. Griffen and Southard followed. At noon he was taken to the district attorney's office. Griffen did not recall whether James, when at the district attorney's office on the day he was taken into custody, had requested that word be sent to Mr. Silverman, his attorney, requesting his presence. On Tuesday he saw the defendant from seven o'clock to one p. m. At eleven o'clock he gave

instructions to 'book him' at the county jail where he was committed to the 'high power tank.'

"Southard admitted that the investigators operated in relays of pairs for a period of forty-eight hours. The defendant sat in a chair and was not allowed to remove his clothing. Several times he fell asleep from fatigue and exhaustion. * * * it was solely Southard's disappointment in failing to have broken James down by harassment, coercion and physical violence, to a state of accepting Hope's sensational story (which was a composite product of the detectives and investigators in collaboration with Hope) which ired Southard to the point of physical violence. Southard had been an investigator for eight years and was seasoned to his task. His act was inexcusable and in violation of Section 149 of the Penal Code. * * * The defendant was under no compulsion of law or duty to answer the officers in any particular manner or at all. Several apparently disinterested witnesses and one or two officers testified absolutely that James' face showed black and blue and swollen spots which were plainly visible for several days after his arrest. He testified to terrible beatings he received in the private house in which he was detained and that his body was made black and blue from the waist up and that he had suffered a hernia or rupture from the roughing which he passed through. A physician who had examined his abdomen five months prior testified that he had observed no evidence of hernia at that time but an examination since his arrest clearly disclosed the existence of a hernia. The prosecution called a few witnesses connected with the official staff who testified they did not observe any bruises on the defendant's face, but in the main their testimony was more in avoidance of direct and positive answers which should have been given by officers of the law. There can be no possible doubt, as testified to by one or two of the officers themselves, and by independent parties, that the defendant's ears bore marks and bruises which any one at all observant should have seen. James says he was practically made hard of hearing by the head beating he had received from

Southard and Griffen and that his body was black and blue from the waist line upward. * * * Southard said he gave instructions that James was not to be left alone at any time; one or more investigators was questioning him at all times; some questions he answered and some questions he refused to answer; he would just sit and look blankly. Southard testified that he had three meals a day, but James testified he was practically starved into a state in which he told the investigators he would answer any questions in any way the investigators wanted him to answer it. It is the admitted fact that he was interrogated by the district attorney and his assistant, Mr. Williams, at all hours of the night, for as many as two and a half to three hours. One period continued from one o'clock to six o'clock. The officers also took part in interrogating the defendant. The plan adopted was that the investigators worked on the defendant to a point where it was deemed expedient or advisable to take him before the district attorney and if satisfactory progress had not been made he would be returned to the private custody of the investigators for the employment of such methods as would work a change of mental attitude on the part of the defendant. No other possible answer could be made to their unauthorized action which only ended with the procurement of the alleged confession. At times numerous officers would be present, and sometimes, James testified, he was left with but one officer. The evidence adduced by the prosecution affirmatively shows that the defendant was shifted back and forwards in the manner herein described many times at all hours of the day and night, continuing over a long inquisitorial period. At times Hope was brought into the room and engaged James in controversial disputes. * * *

"James testified at the trial that practically everything he told Killion, Southard and the district attorney concerning his wife was the story which the investigators had drilled into him for hours for several days. He said he was not able to stand further beatings and physical punishment with which he was threatened;

> that if he gave an answer to a question which did not suit the questioners he was struck on the head. He had also received one or two terrific beatings at the hands of Southard and Griffen; he would have preferred death rather than be returned to the private residence, which the officers had threatened to do, where most of the punishment was inflicted. The story he told Killion had been repeated a "thousand" times to him; for days when they repeated to him Hope's story he told the officers he did not know what they were talking about until he was coerced into submission."

That the said procedure and proceedings and use of the alleged confession in the trial over objections overruled (R. 628-630) by trial court obtained in this manner made of the trial a mock and farce, that it degraded the proceedings to trial by ordeal, and trial of the torture chamber methods and that such a trial is in violation of due process of law was raised in the State Supreme Court and denied (see opinion, R. 979, 1056-1076) and on petition for rehearing on October 25, 1939, and said court again considered said right claimed under the Constitution of the United States and denied the same on November 3, 1939 (R. 842, 843, 857-885, 941, 948, 949, 950).

That such procedure and proceedings deny due process of law and is inconsistent with the "fundamental principles of liberty and justice which lie at the base of all our civil and political institutions." *Hebert* v. *Louisiana*, 27 U. S. 312. That to deprive a person of sleep is a form of torture not less severe than physical violence. *Ziang Sun Wan* v. *U. S.*, 266 U. S. 1, 69 L. Ed. 131. That use of third degree methods to extort a purported confession and use of same in a trial is in violation of due process of law. *Brown* v. *Mississippi*, 297 U. S. 278; *Rounds* v. *State*, 106 S. W. (2) 212; *Peo.* v. *Dye*, 119 Cal. Ap. 262.

3. That the defendant was deprived of the right of counsel after his arrest and while he was being interrogated by

the district attorney himself, and his staff; that he had asked for said Counsel Silverman (R. 466, 628), and was denied his presence (R. 473, 474), although the district attorney knew he had private counsel. That he was entitled under the Constitution and laws of the United States to be represented by private counsel of his own choice at all stages of the proceedings. That the denial of this right was a denial of rights guaranteed under the Fourteenth Amendment to the Constitution of the United States. *Powell* v. *Alabama*, 287 U. S. 45.

That this right was asserted by appellant in the trial (R. 466), and in the Supreme Court (R. 950 *et seq.*), and in petition for rehearing as a right guaranteed under the Constitution of the United States in the due process clause of the Fourteenth Amendment and said right was considered and on November 3, 1939, the Supreme Court of California held against appellant and ruled that his rights under the Constitution of the United States were not violated (R. 913, 916, 941, 950).

4. That your appellant was placed upon trial in California on a charge of the murder of Mary Emma James (R. 253-416, 448; also see opinions of Supreme Court). That without any indictment or information or other proceeding, and without any notice, or any court processes to produce witnesses, the appellee produced witnesses from the State of Colorado and introduced into the case testimony regarding the death of a former wife Winona James, in Colorado. A large portion of the trial was devoted to this evidence, and a portion of both the majority and dissenting opinion and a large portion of argument for the people is devoted to this evidence. That appellant was without notice of any such charge, and without any court processes from California to produce witnesses in rebuttal.

That the use of this evidence was challenged in the trial

(R. 254-257, 263-410, 695-993) as violating the basic right of due process of law, namely to receive notice of the charge one must meet, and be given an opportunity to meet it and that such misuse of such alleged evidence in the case contravened his rights under the Fourteenth Amendment to the Constitution of the United States. Appellant presented said claim in the trial court (R. 254, 257, 263, 410), in the Supreme Court, and upon petition for rehearing on October 25, 1939 and said court upon November 3, 1939 considered said question thus presented and ruled against the claim of your petitioner and held that no rights under the Fourteenth Amendment to the Constitution of the United States were violated. (See petition for rehearing in Supreme Court and certificate of Chief Justice Waite, R. 906-910, 947-950.)

5. Since the judgment was pronounced in the trial court, the witness Charles H. Hope has filed with the trial court two affidavits in which he repudiates his testimony in the trial of the case and asserts that his testimony was perjured and was known to the prosecution to have been perjured when given. That copies of said affidavits were presented to the Supreme Court on October 25, 1939 which was asked pursuant to Article VI, Sec. 4¾ of the Constitution of California and Section 956-A of the Code of Civil Procedure of California and Rule XXXVIII of the Rules of the Supreme Court of California for leave to produce additional evidence to show that Hope's testimony, upon which the appellant's conviction rests, was perjured and false in every material part; that to sustain a conviction upon such perjured testimony was in violation of the Fourteenth Amendment to the Constitution of the United States; such claimed right under the Fourteenth Amendment was considered on November 3, 1939 by the Supreme Court of California and denied (R. 920-940, 882-906, 941, 948-949, 950).

That a trial based on perjured testimony is in violation

of due process of law and the State which still has corrective processes, in denying them, denies due process of law guaranteed by the Fourteenth Amendment to the Constitution of the United States.

Mooney v. *Holohan*, 294 U. S. 103;
Jones v. *Commonwealth of Kentucky*, 97 F. (2d) 333.

Each of these questions raised was substantial. (*Zucht* v. *King*, 260 U. S. 174, 176, 177.) Each denied to appellant fundamental rights to a fair trial guaranteed as a part of due process of law under the Fourteenth Amendment to the Constitution of the United States.

Objection to the bringing in of live rattlesnakes into the courtroom was voiced immediately by the counsel for defense during the trial (R. 200-201), thereafter again on motion for new trial (R. 823, 827-831), and objections were overruled and motions for new trial denied (R. 834-835). Thereafter the cause was presented to the Supreme Court which considered and denied appellant's claims therein (R. 950, 1085). Upon petition for rehearing and while the cause was still within the jurisdiction of the Supreme Court appellant challenged the bringing in of live rattlesnakes as violative of his rights under the Fourteenth Amendment to the Constitution of the United States and the court considered his challenge and denied the same. (See petition for rehearing, ruling thereon and certificate of Chief Justice, R. 842, 941, 947-950.)

That appellant objected in the trial court to the introduction of a purported or alleged confession on the ground that the same was extorted and coerced from him by third degree methods; that on *voire dire* examination and testimony he testified to the manner of obtaining the same in Rep. Transcript pages (R. 449, *et seq.*; 484-498). That Officer J. C. Southard admitted striking appellant and using physical force upon him (R. 463-464); James was

not permitted to sleep (R. 456-461, 463-475); that the trial court overruled all objections to use of alleged confession and permitted the same (R. 627 *et seq.*; 628-629). That on appeal the use of this alleged confession extorted from appellant by means of physical and mental force was challenged and the court in its majority opinion sustained the use thereof; a dissenting opinion was written on same (R. 979, 1115); that on rehearing your appellant challenged the use of said purported confessions thus obtained as violative of the Fourteenth Amendment to the Constitution of the United States and that on November 3, 1939 the Supreme Court considered said rights under the Fourteenth Amendment to the Constitution of the United States and denied the same (R. 842, *et seq.*; 941, *et seq.*; 947-949; 960, *et seq.*; 981, 1055-1077).

That objections were made to the introduction in evidence in the trial of witnesses from Colorado regarding the death of appellant's wife in Colorado (R. 253), that said objections were overruled by the trial court (R. 254, 257, 263, 410, 968-969); that the same were passed upon by the Supreme Court (R. 1041, *et seq.*; 1119-1120); and that the use of this evidence was challenged as violative of the rights of appellant under the Fourteenth Amendment to the Constitution of the United States; that the Supreme Court received said petition on October 25, 1939 in accordance with its procedure and practice and on November 3, 1939 considered the same and ruled against appellant's challenge of the use of said evidence as violative of the Fourteenth Amendment to the Constitution of the United States (R. 843, 906-910, 941, 948-950, 968-976, 1042, *et seq.*; 1102-1111).

That appellant presented for the first time affidavits which have been filed in the Superior Court of Los Angeles County which first tried the case, affidavits of Charles H. Hope the principal witness in the case against appellant

to the effect that he perjured himself during the trial and that such perjury was known to the prosecuting officers; that such affidavits were presented to the Supreme Court in the petition for rehearing on October 25, 1939, with request to take further testimony, or to grant a new trial; that the conviction based upon perjured testimony violated appellant's rights under the due process clause of the Fourteenth Amendment to the Constitution of the United States, and such asserted right was considered by the Supreme Court and denied November 3, 1939 (R. 882-905, 941, 948-949, 950).

That your appellant also upon petition for rehearing asserted that he had been denied due process of law guaranteed by the Fourteenth Amendment to the Constitution of the United States in being deprived of counsel at the time of his interrogation that he requested the same and that he was entitled to counsel at all stages of the proceedings. That this right was considered by the Supreme Court of California on rehearing on November 3, 1939 and denied (R. 911-914, 941, 950).

The trial was never a legitimate proceeding from beginning to end. It was in effect a mob trial, commencing with a mob of policemen, district attorney's investigators, and the district attorney and his deputies, who without legal process kidnapped and held the appellant incommunicado and engaged in admitted tortures that resemble not a free and lawful government lawfully enforcing the law but a group of outlaws engaged in barbarities that revert to the days of trial by torture and ordeal and return us to the rack. There was a blending of rattlesnake venom with a jury verdict as a result of a pretended trial.

D.

Cases Believed to Sustain Jurisdiction.

Whitney v. *California*, 274 U. S. 357.
Fiske v. *Kansas*, 274 U. S. 380.
Stromberg v. *California*, 283 U. S. 359.
Fleming v. *Fleming*, 264 U. S. 29.
Cumberland Coal Co. v. *Board of Revision*, 284 U. S. 23.
Cincinnati P. B. S. & P. Packet Co. v. *Bay*, 200 U. S. 179.
Patterson v. *State of Alabama*, 294 U. S. 600.
Brown v. *Mississippi*, 297 U. S. 278.
Ziang Sun Wan v. *U. S.*, 266 U. S. 1, 69 L. Ed. 131.
Moore v. *Dempsey*, 261 U. S. 86.
Powell v. *Alabama*, 287 U. S. 45.
Hebert v. *Louisiana*, 272 U. S. 312.
Mooney v. *Holohan*, 294 U. S. 103.
Holden v. *Hardy*, 169 U. S. 366, 42 L. Ed. 780, 790.
Galpin v. *Page*, 18 Wall. 350, 368.